

Litigation Overview: Maryland

GEORGE E. BROWN AND ALLISON MIDEI, KRAMON & GRAHAM,
WITH PRACTICAL LAW LITIGATION

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A Q&A guide to general litigation information for Maryland. This State Q&A covers the Maryland state court structure, state statutes and rules governing litigation procedure, and the attorney admissions process (including admission without examination, pro hac vice admission, and in-house counsel registration). Answers to questions can be compared across a number of jurisdictions (see Litigation Overview: State Q&A Tool).

STATE COURTS

1. What are your state's appellate courts? For each appellate court, please identify:

- The courts from which a direct appeal may be taken to this appellate court.
- The appellate court's general subject matter jurisdiction.
- The state courts(s), if any, to which a further appeal may be sought.

Maryland has two main appellate-level courts: the Court of Appeals and the Court of Special Appeals. Although Maryland's Circuit Courts are primarily trial-level courts, they also exercise limited appellate jurisdiction.

COURT OF APPEALS

The Court of Appeals is Maryland's highest appellate court.

Jurisdiction

The Court of Appeals has:

- Certiorari jurisdiction over cases pending in or decided by the Court of Special Appeals on appeal from:

- a Circuit Court;
- an Orphans' Court; or
- the Maryland Tax Court.
- (Md. Code Ann., Cts. & Jud. Proc. §§ 12-201 and 12-307(1).)
- Certiorari jurisdiction over cases decided by a Circuit Court in which the court renders a final judgment on appeal from:
 - the District Court; or
 - an administrative decision under Title 16 of the Transportation Article, relating to driver's licenses.
- (Md. Code Ann., Cts. & Jud. Proc. §§ 12-305 and 12-307(2).)
- Exclusive appellate jurisdiction over questions of Maryland law certified to it by a federal court or by an appellate court of another state (Md. Code Ann., Cts. & Jud. Proc. §§ 12-307(3) and 12-603).
- Appellate jurisdiction to answer certified questions from the Court of Special Appeals (Md. Rule 8-304).

Further Appellate Review

The US Supreme Court may review a decision by the Court of Appeals in certain situations, such as where:

- The validity of a US treaty or statute is challenged.
 - A state statute is claimed to be unconstitutional.
- (28 U.S.C. § 1257(a).)

COURT OF SPECIAL APPEALS

The Court of Special Appeals is Maryland's intermediate appellate court.

Jurisdiction

The Court of Special Appeals generally has exclusive initial appellate jurisdiction over any reviewable judgment, decree, order, or other action of:

- A Circuit Court.
- An Orphans' Court.

(Md. Code Ann., Cts. & Jud. Proc. § 12-308.)

Further Appellate Review

The Court of Appeals may grant certiorari to review decisions by the Court of Special Appeals (Md. Code Ann., Cts. & Jud. Proc. §§ 12-201 and 12-307(1)).

CIRCUIT COURT

Although Maryland's Circuit Courts are primarily trial-level courts, they also exercise limited appellate jurisdiction.

Jurisdiction

The Circuit Court in each county hears appeals from the District Court of the county in which the Circuit Court sits. Baltimore City has its own Circuit Court, which hears appeals from the District Court sitting in Baltimore City. (Md. Code Ann., Cts. & Jud. Proc. § 12-403.)

Except in Harford County and Montgomery County, a party may appeal a final judgment of an Orphans' Court to the Circuit Court, instead of directly to the Court of Special Appeals. The Circuit Court hears such appeals *de novo*, and the *de novo* proceeding is treated as if it were a new proceeding. (Md. Code Ann., Cts. & Jud. Proc. § 12-502(a).)

Further Appellate Review

The Court of Special Appeals generally reviews Circuit Court decisions (Md. Code Ann., Cts. & Jud. Proc. § 12-308).

The Court of Appeals may also grant certiorari to review a Circuit Court decision in which the court renders a final judgment on appeal from:

- The District Court.
- An administrative decision under Title 16 of the Transportation Article.

(Md. Code Ann., Cts. & Jud. Proc. §§ 12-305 and 12-307(2).)

2. What are the trial courts in your state? For each trial court, please identify:

- The court's general subject matter jurisdiction.
- The state court(s) to which a direct appeal may be taken.

Maryland has two primary trial courts: the Circuit Court and the District Court. In addition, the Orphans' Court is a specialized court that handles probate and limited aspects of guardianship.

CIRCUIT COURT

The trial courts of general jurisdiction in Maryland are the Circuit Courts. There is a Circuit Court in each of Maryland's 23 counties and one in Baltimore City. The Circuit Courts are also grouped into eight judicial circuits. (See Maryland Courts: Circuit Courts.)

Jurisdiction

The Circuit Courts are where jury trials are held and are the highest common-law and equity courts with original jurisdiction within the

State. Each Circuit Court has full common law and equity powers, and jurisdiction over all civil and criminal cases within its county. (Md. Code Ann., Cts. & Jud. Proc. § 1-501.)

Appeals

A party may generally appeal a Circuit Court decision to the Court of Special Appeals (Md. Code Ann., Cts. & Jud. Proc. § 12-308).

DISTRICT COURTS

Jurisdiction

The District Court is a trial-level court of limited jurisdiction (Md. Code Ann., Cts. & Jud. Proc. § 1-601).

The District Court has exclusive original civil jurisdiction in:

- Claims for \$5,000 or less.
- Contract and tort actions for not more than \$30,000, excluding interest, costs, and attorney's fees.
- Actions for replevin.
- Actions for prejudgment attachment if the amount at issue does not exceed \$30,000, excluding interest, costs, and attorney's fees.
- Landlord-tenant actions.
- Actions involving distraint or wrongful detainer.
- Grantee suits brought under Section 14-109 of the Real Property Article;
- Injunction petitions relating to the use, disposition, encumbrances, or preservation of property that is:
 - claimed in a replevin action, until seizure under the writ; or
 - sought to be levied on in an action of distress, until levy and any removal.
- Injunction petitions filed by:
 - a tenant in an action under Section 8-211 of the Real Property Article or a local rent escrow law; or
 - a person who brings an action under Sections 14-120, 14-125.1, or 14-125.2 of the Real Property Article.
- Various petitions filed by counties or municipalities for enforcement of local codes.
- Proceedings under Title 12 or Title 13 of the Criminal Procedure Article for the forfeiture or return of money involved in a gambling or controlled dangerous substances seizure where the amount involved does not exceed \$20,000, excluding interest and attorney's fees.
- Adjudication proceedings for various civil penalties, violations, and infractions.
- Proceedings for peace orders under Title 3, Subtitle 15 of the Courts & Judicial Proceedings Article.
- Property condemnation proceedings, where the estimated value of the property does not exceed \$25,000.
- Proceedings for a replacement motor vehicle under Section 14-1502(c)(1)(i) of the Commercial Law Article.
- Actions for damages for a dishonored check or other instrument under Title 15, Subtitle 8 of the Commercial Law Article.

- Civil actions for an injunction or a civil penalty for a violation of Section 8-605(f) of the Transportation Article.

(Md. Code Ann., Cts. & Jud. Proc. §§ 4-401 and 4-402.)

The District Court also has concurrent jurisdiction with the Circuit Court for:

- Claims for amounts over \$5,000 but not more than \$30,000.
- Proceedings under Title 4, Subtitle 5 of the Family Law Article. The district court has the powers of a court in equity in those proceedings.

(Md. Code Ann., Cts. & Jud. Proc. §§ 4-401, 4-402, and 4-404.)

Except as otherwise provided by statute, the District Court does not have:

- General equity jurisdiction.
- The jurisdiction to decide the ownership of real property or of an interest in real property.
- The jurisdiction to render a declaratory judgment.
- The jurisdiction to conduct jury trials in actions for \$15,000 or less, excluding attorney's fees.

(Md. Code Ann., Cts. & Jud. Proc. § 4-402).

Appeals

A party may appeal District Court decisions to the Circuit Court for the county in which judgment was entered. An appeal from the District Court in Baltimore City goes to the Circuit Court for Baltimore City. (Md. Code Ann., Cts. & Jud. Proc. § 12-401.)

ORPHANS' COURT

Jurisdiction

The Orphans' Court is Maryland's probate court, which also has limited jurisdiction over guardianships. There is an Orphans' Court in each of Maryland's 23 counties and Baltimore City. Judges of the Circuit Court in Harford County and Montgomery County preside over the Orphans' Courts in those counties. (See Maryland Courts: Maryland Orphans' Court.)

The Orphans' Court has the same legal and equitable powers as a court of record with general jurisdiction in equity (Md. Code Ann., Est. & Trusts § 2-103). In general, the Orphans' Court's jurisdiction is limited to wills, estates, and other probate matters and limited aspects of guardianship.

The Orphans' Court may:

- Conduct judicial probate.
- Direct the conduct of a personal representative.
- Pass orders which may be required in the course of the administration of an estate of a decedent.

(Md. Code Ann., Est. & Trusts § 2-102.)

The Orphans' Court has concurrent jurisdiction with the Circuit Courts over:

- Guardians of the person of a minor.
- Protective proceedings for minors.

(Md. Code Ann., Est. & Trusts § 13-105.)

Appeals

A party may appeal to the Court of Special Appeals from a final judgment of an Orphans' Court (Md. Code Ann., Cts. & Jud. Proc. § 12-501).

In counties other than Harford County and Montgomery County, a party may also appeal to the Circuit Court from a final judgment of the Orphans' Court. If a party appeals to the Circuit Court, the appeal is heard *de novo* and treated as if it were a new proceeding. (Md. Code Ann., Cts. & Jud. Proc. § 12-502.)

STATE LITIGATION PROCEDURE

3. What are the key statutes and rules governing litigation procedure in your jurisdiction?

- **Maryland State Constitution.** Article 4 of the Maryland State Constitution governs the creation and jurisdiction of the State's various courts.
- **Maryland Code, Courts & Judicial Proceedings Article.** The Courts & Judicial Proceedings Article governs various issues, including the jurisdiction and powers of Maryland's state courts and the administration of Maryland's court system.
- **Maryland Code, Estates & Trusts Article.** The Estates & Trusts Article, specifically Sections 2-102, 2-103, 13-105, and 13-106, govern the jurisdiction and powers of Maryland's Orphans' Court.
- **Maryland Rules.** The Maryland Rules comprise the main body of law governing procedure in Maryland's state courts.
- **Electronic Filing Rules.** The basic requirements for navigating the Maryland Electronic Court System (MDEC) are set forth in Title 20 of the Maryland Rules, with which all users of MDEC should become familiar.
- **Court-Specific Rules.** Some courts have their own specific rules governing practice and procedure. These rules are typically posted on the courts' websites.
- **Judges' Rules.** The justices or judges for each court may have individual practice rules governing such things as motion practice, trials, and conferences. These rules are typically posted on the courts' websites.

ISSUES FOR ATTORNEYS

4. Please describe how an attorney becomes a member of the state bar in your jurisdiction, including whether the state offers attorneys admitted in other states reciprocity or the ability to register as in-house counsel.

ADMISSION ON EXAMINATION

General Admission

Generally, to be admitted to the Maryland State Bar, an individual must:

- Be at least 18 years old (Md. Attorneys Rule 19-201(c)).
- Have completed the pre-legal education necessary to meet the minimum requirements for admission to a law school approved by the American Bar Association (Md. Attorneys Rule 19-201(a)(1)).

- Have graduated or be unqualifiedly eligible for graduation with a juris doctor or equivalent degree from a law school located in a state and approved by the American Bar Association (Md. Attorneys Rule 19-201(a)(2)). The State Board of Law Examiners may waive this requirement for applicants meeting certain qualifications under Md. Attorneys Rule 19-201(b).
- Pass the Maryland General Bar Examination (Md. Attorneys Rule 19-206).
- Successfully complete a character review, including a personal interview with a member of a Character Committee (Md. Attorneys Rule 19-203).
- Participate in an orientation program approved by the Court of Appeals for effectively informing applicants of core requirements for practicing law in Maryland, unless excused by order of the Court of Appeals (Md. Attorneys Rule 19-210).
- Take the oath required by law (Md. Attorneys Rule 19-211).

An individual seeking general admission to the Maryland Bar must file with the State Board of Law Examiners:

- An application, under oath, for admission on a form prescribed by the Board.
- A Notice of Intent to Take a Scheduled General Bar Examination.
- The prescribed fee.

(Md. Attorneys Rule 19-202.)

Out-of-State Attorney Admission by Attorney Examination

Alternatively, an individual may be admitted as an out-of-state attorney if that individual:

- Is a member in good standing of a state Bar.
- Has passed a written bar examination in a state or is admitted to a state bar by diploma privilege after graduating from a law school accredited by the American Bar Association.
- Has the requisite professional experience of practicing law described in Md. Attorneys Rule 19-212(b) and (c) for a total of ten years or at least five of the ten years immediately preceding the application.
- Successfully completes the attorney examination required by Md. Attorneys Rule 19-213.
- Possesses the good moral character and fitness necessary for the practice of law.

(Md. Attorneys Rule 19-212.)

An out-of-state attorney seeking admission to the Maryland Bar must file with the State Board of Examiners:

- A petition under oath on a form prescribed by the Board.
- Fees required by the Board.
- The costs assessed for the character and fitness investigation and report by the National Conference of Bar Examiners.

(Md. Attorneys Rule 19-213(a).)

ADMISSION WITHOUT EXAMINATION

An individual may not be admitted to the Maryland Bar without examination.

REGISTRATION OF IN-HOUSE COUNSEL

An individual who is admitted to the bar of any state need not register to give legal advice to the individual's employer or the employer's organizational affiliate (Md. Code Ann., Bus. Occ. & Prof. § 10-206(d)). In-house counsel:

- Are subject to disciplinary proceedings as the Maryland Rules provide.
- May not appear before a unit of the state government or a political subdivision unless a court grants special admission in accordance with § 10-215 of the Business Occupations & Professions Article of the Maryland Code.

(Md. Code Ann., Bus. Occ. & Prof. § 10-206(d).)

5. Please describe the process for becoming admitted on a *pro hac vice* basis in your jurisdiction.

A member of the Maryland Bar who is an attorney of record in a pending action or arbitration held under Maryland law may move that an out-of-state attorney be admitted *pro hac vice* for the limited purpose of appearing and participating in the action as co-counsel with the movant. The out-of-state attorney must be a member in good standing of the Bar of another state. (Md. Attorneys Rule 19-214(a)(1).)

Where the Maryland attorney files the *pro hac vice* motion depends on where the pending action or arbitration is taking place. For example:

- If the action is pending in a court, the motion must be filed in that court.
- If the action is pending before an administrative agency, the motion must be filed in:
 - the circuit court for the county in which the principal office of the agency is located; or
 - any other circuit court in which an action for judicial review of the decision of the agency may be filed.
- If the matter is pending before an arbitrator or arbitration panel, the motion must be filed in:
 - the circuit court for the county in which the arbitration hearing is to be held; or
 - any other circuit court in which an action to review an arbitral award entered by the arbitrator or panel may be filed.

(Md. Attorneys Rule 19-214(a)(2).)

The motion must:

- Be in writing.
- Include the movant's certification that copies of the motion have been served on the agency or the arbitrator or arbitration panel, and all parties of record.

(Md. Attorneys Rule 19-214(a)(3).)

The out-of-state attorney must certify in writing the number of times the attorney has been specially admitted during the 12 months immediately preceding the filing of the motion. The certification may be filed as a separate paper or may be included in the motion under an appropriate heading. (Md. Attorneys Rule 19-214(a)(4).)

An attorney admitted *pro hac vice* may act only as co-counsel for a party represented by a Maryland attorney of record in the

action. The *pro hac vice* attorney may participate in the court or administrative proceedings only when accompanied by the Maryland attorney, unless the Maryland attorney's presence is waived by the judge or administrative hearing officer presiding over the action. (Md. Attorneys Rule 19-214(d).)

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